

REMARKS

In the office action of September 30, 2004, the Examiner objected to Claim 27 in view of certain informalities; that is, the abbreviation *L. intracellularis*. That informality is now corrected with the present amendment.

Claims 3-5, 27-28 and 31 stand rejected under 35 U.S.C. § 112, first paragraph, for containing new matter with regard to reciting that the composition induces the production of certain specific antibodies.

The rejection under 35 U.S.C. § 112, first paragraph, is respectfully traversed. With the present amendment, it is believed that this matter is rendered moot. It is noted, however, that the specification does describe raising specific antibodies to defined antigens after vaccination with vaccines according to the present invention. For example, this is stated in the second full paragraph on page 9, and the third full paragraph on page 14, lines 20-31, as well as the results disclosed in examples five and six.

Claims 3-5, 27-28 and 31 stand rejected under 35 U.S.C. § 112, first paragraph, for lack of an enabling description. The Examiner objected that no affidavit is provided with respect to the Budapest Treaty Deposit.

With the present amendments the reference to the ATCC deposit in Claim 27 is now deleted.

Claims 3-5, 27-29 and 31 stand rejected under 35 U.S.C. § 103(a) for being obvious over Knittel et al taken in view of Joens et al.

The Examiner has asserted that the general description of methods for preparing inactivated and modified or attenuated vaccines in Joens et al provide a skilled artisan with a reasonable expectation of success. Applicant Joens respectfully submits that it is well recognized in the vaccine art that there is no assurance of producing a successful vaccine until such vaccine is produced. It is respectfully submitted that the general description of accepted methods for producing vaccines is not an enabling disclosure.

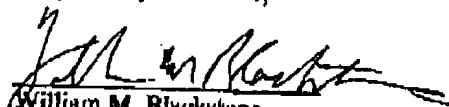
It is further submitted that with the present amendments the disclosures in Joens et al and/or Knittel et al do not anticipate or render obvious the presently claimed vaccine. With the amendments, Claim 27, the independent claim, is directed to a composition comprising an immunogenically effective amount of isolated *Lawsonia intracellularis* 41 kD and 43-44 kD antigens. These antigens produce neutralizing monoclonal antibodies. This is stated, for example, on page 15, lines 14 and 15 in the specification.

In view of the above it is believed that Claims 3, 5, 27, and 31, all claims now in the case, are in condition for allowance. Favorable action is solicited. Should the Examiner consider that a conference would be helpful in advancing the prosecution of this application, he is invited to telephone Applicant's attorney at the number below.

Pursuant to 37 C.F.R. §§1.17 and 1.136(a), Applicant respectfully petitions for a two month extension of time for filing a response in connection with the above identified application. Please charge Deposit Account No. 02-2334 the required fee of \$450.00.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies, to charge payment or credit any overpayment to Deposit Account No. 02-2334 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

Respectfully submitted,



William M. Blackstone
Attorney for Applicant
Registration No: 29,772

Akzo Nobel Pharma Patent Department
Intervet Inc.
P.O. Box 318
29160 Intervet Lane
Millsboro, DE 19966
Tel: (410) 464-0581
Fax: (302) 934-4305

Attorney Docket: 1-2000.611 US PD
USSN: 09/677,108

5